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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION TWO

In re N.S. et al., Persons Coming Under the
Juvenile Court Law.

SOLANO COUNTY DEPARTMENT OF
HEALTH AND SOCIAL SERVICES,

Plaintiff and Respondent,

v.

X.H.,

Defendant and Appellant.

A123776

(Solano County
Super. Ct. No. J33539)

In July 2005, the juvenile court found N.F.S. and N.A.S. (collectively, the twins or the twin boys) to be dependents of the juvenile court under Welfare and Institutions Code section 300.¹ Brenda S. (mother) had given birth to the twins while incarcerated. Mother told the Solano County Department of Health and Social Services (the department) that X.H. was the father of the twin boys, but she did not know his whereabouts. During the subsequent dependency proceedings, the department was unable to locate X.H. In August 2006, the lower court followed the recommendations of the department and returned the twin boys to mother's care. In January 2007, the court terminated its jurisdiction over the minors.

¹ All further unspecified code sections refer to the Welfare and Institutions Code.

Shortly thereafter, in February 2007, mother was arrested for possession of methamphetamines for sale, parole violation, and child endangerment. Another section 300 petition was filed and the juvenile court again ordered the twins detained. The court denied reunification services and set the matter for a section 366.26 hearing; the department reported that X.H.'s whereabouts still remained unknown. On November 13, 2007, at a hearing on the department's motion to continue the section 366.26 hearing, the department reported that X.H. had been located and he was incarcerated. On November 15, the court appointed counsel for X.H.

After numerous continuances where X.H., his counsel, or both X.H. and his attorney appeared, the court, on December 17, 2008, held the contested section 366.26 hearing. X.H. was not present because he was still incarcerated and was not transported to the hearing due to a miscommunication between Monterey County and X.H.'s attorney. X.H.'s attorney requested a continuance to permit X.H. to attend. The court determined that good cause was not demonstrated and denied the request. The court found that the twins were adoptable and that no exception to the termination of parental rights existed; it thus terminated parental rights.

X.H. appeals and contends that the lower court's refusal to continue the section 366.26 hearing to permit him to attend violated his due process rights. Further, he argues that the failure to provide him with notice of the earlier stages of the dependency proceedings created a structural defect requiring reversal. We conclude that X.H.'s arguments do not have merit and affirm the lower court's judgment.

BACKGROUND

Mother had seven children and, of these seven children, X.H. was the alleged father of the twin boys. Since many of the facts in the dependency proceedings relate to mother and have no particular relevance to the appeal by X.H., we provide only a summary of those facts concerned with the removal of the twins from mother's care. We set forth in more detail the facts directly relevant to X.H.'s appeal.

The First Petition and Jurisdiction Hearing

On August 2, 2005, a petition was filed pursuant to section 300, subdivisions (b), (g), and (j), alleging that mother, who was incarcerated, gave birth to twin boys in July 2005. The petition alleged that mother planned to place the twins with her mother (the twins' grandmother), despite knowing that her mother had lost custody of another one of mother's children, K.R., in June 2005 when the twins' grandmother tested positive for the use of methamphetamines. The petition also alleged that the twins were at a substantial risk of abuse or neglect in that their half siblings, M.M., D.M., F.U., K.U., and K.R., had been adjudicated dependent minors due to mother's continued exposure of them to conditions of neglect and her failure to comply with services to address her substance abuse. M.M., D.M., and K.U. had been placed in the permanent planning unit. The petition further asserted that the whereabouts and circumstances of X.H., the alleged father of the twins, were unknown.

The department's report dated August 2, 2005, stated that mother identified X.H. as the twins' father. According to the report, mother did not know where X.H. lived or his phone number. Additionally, mother told the social worker that she did not know the names or addresses of any of X.H.'s relatives. Mother did tell the social worker that the mother of X.H. lived in Modesto, but she did not know her name.

On August 3, 2005, the juvenile court ordered the twins detained. The twins were placed in foster care and mother and the twins' grandparents were allowed supervised visits, conditioned upon abstaining from drug and alcohol use. The petition was sustained and mother was granted in-custody weekly supervised visits while in the county jail.

The Disposition Hearing

The department filed a disposition hearing report regarding the twin boys and their half sibling K.R. The department recommended placement of the twins and K.R. out of the home. The report stated that the department did not know X.H.'s whereabouts, but that K.R.'s alleged father had appeared at a hearing.

After an uncontested disposition hearing, the court adjudicated the twins dependents of the juvenile court and found by clear and convincing evidence that the return of the twin boys to their parents would be detrimental. The court also found that reasonable efforts to locate X.H. were made by the department, but it was unsuccessful in locating him. The court ordered reunification services.

The Six-Month Status Hearing

The department prepared a status review hearing report, which it signed February 2, 2006. The report indicated that mother was scheduled to be released from prison on February 1, 2006. The report stated that X.H.'s address was unknown and that counsel had been appointed to represent him. X.H. had not made any contact with the department to inquire about the twins, and mother was unable to provide any information to help locate X.H. The department had requested an absent parent search in December 2005.

The department's report stated that the twin boys had been placed for four and one-half months with their current foster family. The twins were doing well and exhibited no health or developmental issues. The twins did not have any relationship with mother and the department estimated that it would take approximately 6 to 12 months for mother to establish a parental relationship with them. The department recommended terminating reunification services to both mother and X.H.

The court held a contested six-month status review hearing in April 2005. Mother had been released from prison and had made some progress towards sobriety and living independently from the twins' grandparents. The court ordered reunification services to continue for another six months, with the goal of returning the twins to mother's care. With regard to X.H., the court announced that he had not been located. The court noted that services had been offered to X.H., but he had not taken advantage of them because he had not presented himself to the court. The court found that the department had exercised reasonable diligence in trying to find him and had been unable to locate him. Since the twins were infants and reunification services had been offered for six months, the court terminated reunification services as to X.H.

The 12-Month Status Review Hearing

Prior to the 12-month status review hearing regarding the twins, the department on June 29 and July 10, 2006, filed two declarations of due diligence regarding its attempts to locate X.H. These declarations detailed the department's efforts to locate X.H. from August 2005 through July 2006.

The department filed its 12-month status review hearing on August 8, 2006. The report noted that mother was enrolled in a substance abuse program and that her weekly drug tests were negative. The report stated that mother was now building a relationship with the twins and the department recommended placing the twins with her. The report pointed out that two older half siblings had already been placed back in mother's care.

On August 22, 2006, the juvenile court followed the recommendations of the department. It returned the twin boys to mother's care and provided family maintenance services.

Termination of Dependency Jurisdiction

The department filed a status review report on January 11, 2007. According to the report, the twins and their two half siblings were doing well with mother. The whereabouts of X.H. remained unknown. The court terminated dependency jurisdiction on the twins and the two half siblings on January 23, 2007.

The Second Petition

On February 8, 2007, shortly after the court had terminated dependency jurisdiction, a second petition pursuant to section 300, subdivisions (b) and (g) was filed regarding the twins and two of their half siblings. The petition alleged that the twins and their half siblings were removed from mother's custody on February 6, 2007. The petition indicated that the department still did not know X.H.'s whereabouts. The intake report dated February 8, 2007, stated that mother had been arrested on February 6, 2007, for possession for sale of methamphetamines, child endangerment, and violation of parole. On the date mother was arrested, the children were in the home under the care of two parolees. One of the parolees had a violent history and was wanted in connection

with another drug investigation. At the hearing on February 9, 2007, the juvenile court ordered the twins detained again.

On March 7, 2007, the department filed an addendum to the intake report. The report stated that one of the twins and the other two half sibling had tested positive for the presence of illegal drugs in their systems. On May 1, 2007, mother waived her hearing rights and submitted on the petition. The juvenile court again took jurisdiction over the twin boys and their two half siblings.

The Second Disposition Hearing

Department filed its report on June 12, 2007. The report noted that it still did not know X.H.'s whereabouts. The report stated that the twins were going to be removed from their foster adopt caregiver as it was discovered that the caregiver was involved in a relationship with a registered sex offender. The department did not recommend services to mother because of her history with the child protective services, her chronic use of drugs, and her failure to comply with a program of drug treatment. It also recommended that reunification services be bypassed for X.H. because he could not be located.

The court held the disposition hearing on August 9, 2007. Mother argued that there was no legal basis for denying her reunification services. After taking the matter under submission, the court denied reunification services for both parents and set the matter for a section 366.26 hearing.

The Section 366.26 Hearing

On November 9, 2007, the department moved to continue the section 366.26 hearing on the basis that further efforts were "underway through an absent parent search to locate the alleged father, which is a condition precedent to providing notice by publication." The department declared that it needed more time to seek a court order for substitute service in a newspaper of general circulation.

At the hearing on November 13, 2007, on the department's motion to continue, the department revealed that it just learned that X.H. was at the Claybank detention facility in the county. The court continued the section 366.26 hearing to give the department an opportunity to provide notice to X.H. and to provide the court with time to appoint

counsel for him. At the end of November 2007, X.H. was personally served with notice of the section 366.26 hearing set for January 8, 2008. Counsel was appointed for X.H. and notice was also provided to counsel.

Department filed its section 366.26 report that it signed on December 20, 2007. The report stated that the twins were placed together in the home of a non-relative extended family member. It concluded that the children were thriving in this individual's care. The report indicated that X.H. had not had any contact "with the twins in their lifetime." The department found the children to be adoptable and recommended terminating parental rights.

X.H. appeared at the hearing on January 8, 2008, but his counsel could not attend. The court continued the matter one week. On January 15, 2008, counsel for X.H. appeared and the court set the contested section 366.26 hearing for February 20, 2008.

On February 20, 2008, both X.H. and his counsel appeared at the hearing. Counsel for mother requested a continuance because there were reports that the substitute caretaker might not want to adopt the twin boys. The court granted the continuance. Subsequently, the matter was continued again because the twins' caretaker had changed her mind about adopting the twins.

On July 24, 2008, the department filed an updated section 366.26 report. The department recommended the termination of parental rights to mother and X.H. The department also found the children to be adoptable since the current caretakers wished to be considered for the twins' adoption. The report stated that the children were thriving in their current home. During the entire time the twins had been in foster care, X.H., according to the report, had never contacted the department and had never visited the twins. Mother was now claiming that X.H. had seen the twins during the brief time the twin boys had been placed with her.

A contested hearing was set for November 5, 2008, and the department filed an addendum report. The report stated that X.H. was incarcerated in Salinas. He refused to provide information regarding his criminal history to the department. However, according to the Department of Justice, he had six convictions, two for felonies. The

report further noted that X.H. had not visited the twins and did not have a relationship with the children. The report added that paternity had not been established and X.H.'s name was not on the twins' birth certificates. The social worker opined that the twins were adoptable, and recommended termination of parental rights.

On November 5, 2008, the court again continued the section 366.26 hearing at the request of counsel for X.H. Counsel requested the continuance because Monterey County would not release X.H. for transport to Solano County due to a pending court date in Monterey County. Counsel reported that X.H. wanted to attend the hearing. The contested hearing was continued to December 17, 2008, and the court issued an order for the transportation of X.H. from Monterey County to the hearing.

At the continued hearing on December 17, 2008, X.H. was not present. Counsel explained that he had contacted Monterey County and believed that X.H. would be brought, but there was a miscommunication. Counsel learned earlier in the day that Monterey County had been waiting for a confirmation from him and, having not received that, did not transport X.H. to the hearing. Counsel moved to continue the hearing until the middle of January. Counsel for mother also requested a continuance to do some additional inquiry regarding a therapist's letter regarding the twins.

The department and counsel for the twins objected to a continuance. The department stressed that X.H. had rarely appeared in court, had not participated in reunification services, had no contact with the children, and would have very little information relevant to his counsel's being able to represent him in this case. The department added that the social worker who drafted the report for the section 366.26 hearing was going out on maternity leave and would be unavailable for cross-examination in January. Additionally, the therapist opted to delay her vacation so that she could be available on this date for cross-examination. Counsel for the children stressed that the section 366.26 hearing had been pending since August 2007 and there had already been seven continuances.

During the following discussion at the hearing, all the parties agreed that the twins were adoptable. The court ruled that it did not find good cause to continue the matter

again. With regard to the absence of X.H., the court explained: “I’m sorry the removal request did not work. My understanding is that he’s never been particularly interested in participating in this process. We did make a good faith effort twice to get him here. Furthermore, I understand that he has no real relationship with this child. He, himself, will not be proposing any evidence that he fits within the exception to termination of parental rights. And further information in the report is that he’s looking at substantial prison time, probably. [¶] Is all of that a fair assessment factually?”

Counsel for X.H. responded: “Well, factually he’s in jail. Factually he faces the risk of a long incarceration. And I think factually he’s been incarcerated for most of the time that the children have been on this earth.”

The court concluded: “So when I’m weighing the detriment to the children of prolonging this process against the benefits and his right to be present to hear firsthand rather than through his counsel what occurs, I’m going to find in favor of the children and deny the request as being without good cause.”

Counsel for X.H. participated in negotiations and the parties reached a settlement. All the parties, including counsel for X.H., agreed to submit on the department’s reports, given an agreement as to post adoption contacts. The agreement provided that X.H. would be able to send correspondence to the adoptive parents and they would review the letters and give them to the children if they considered the correspondence appropriate. At the time the boys became 18 years old, they would be entitled to all of the letters.

The court found that the twins were adoptable and that no exception to the termination of parental rights existed. The court therefore terminated parental rights and freed the twins for adoption.

X.H. filed a timely notice of appeal.

DISCUSSION

I. The Court’s Denial of X.H.’s Request for a Continuance

X.H. contends that the lower court should have granted his request to continue the section 366.26 hearing so that he could be present. He claims that the lower court’s refusal to do so violated his due process rights. We therefore look to see if the court

should have granted X.H.'s request for a continuance and whether his absence at the hearing violated his due process rights.

A. *No Abuse of Discretion*

“The juvenile court may continue a dependency hearing at the request of a parent for good cause and only for the time shown to be necessary. [Citations.] Courts have interpreted this policy to be an express discouragement of continuances. [Citation.] The court’s denial of a request for continuance will not be overturned on appeal absent an abuse of discretion. [Citation.]” (*In re Karla C.* (2003) 113 Cal.App.4th 166, 179-180.)

Here, the record overwhelmingly establishes that the lower court did not abuse its discretion in rejecting the request by counsel for X.H. to continue the section 366.26 hearing. Although it is apparent that X.H. wanted to be present at the hearing and his absence was not his fault, the record is devoid of any evidence to suggest that X.H.’s presence at the hearing would have made any difference. The record indicates that X.H. had no special information that would have aided his counsel during the hearing, as X.H. had rarely appeared in court, had not participated in reunification services, and had not had any contact with the twin boys.

The lower court had to consider at this stage in the proceedings what was best for the children. The court had continued the section 366.26 hearing several times for various reasons and the twins’ placement had been in limbo for over one year. The twins had been placed in numerous homes and they now had an opportunity for stability as the family where they were currently placed was ready to adopt them.

Not only would delaying the hearing have been detrimental to the twin boys, but the granting of the continuance would have created problems. The social worker who drafted the department’s report was going out on maternity leave and would not have been available for cross-examination on the continued date proposed by counsel for X.H. A therapist who was to testify at the hearing had delayed her vacation to testify at the hearing on this date.

We conclude that counsel for H.X. did not establish good cause for continuing the section 366.26 hearing and the lower court did not abuse its discretion in denying this motion.

B. No Due Process Violation

X.H. contends the juvenile court violated his due process rights when it conducted the permanency hearing in his absence. This contention, too, has no merit.

Penal Code section 2625, subdivision (b), requires an incarcerated parent be given notice of any hearing to terminate parental rights under section 366.26. Furthermore, the court may not proceed unless the incarcerated parent is physically present, or a proper waiver of the parent's presence has been provided. (Pen. Code, § 2625, subd. (d).)

X.H. does not address the question whether Penal Code section 2625 applies to an alleged father. X.H. appeared in this matter as an alleged father and therefore had very limited rights. (*In re Zacharia D.* (1993) 6 Cal.4th 435, 449, fn. 15 (*Zacharia D.*) Paternity was never established and X.H.'s name was not on the twins' birth certificates.

The rights to which a father is entitled depend upon his status under the dependency statutes. The dependency statutes distinguish between three categories of fathers: presumed, alleged, and biological or natural. (*Zacharia D.*, *supra*, 6 Cal.4th at p. 449, fn. 15.) The Family Code sets forth the criteria for determining presumed father status, which are, in pertinent part: a man marries or attempts to marry the child's mother, he and the mother execute a voluntary declaration of paternity, or he receives the child into his home and openly holds out the child as his natural child. (Fam. Code, §§ 7571; 7573; 7611, subds. (a)-(d).) A biological father is one whose paternity of the child has been established, but who has not established that he qualifies as the child's presumed father. (*Zacharia D.*, at p. 449, fn. 15.) An alleged father is a man who may be the father of the child, but who has not established biological paternity or presumed father status. (*Ibid.*)

In dependency proceedings, a man's status as a presumed father is critical. (*In re O.S.* (2002) 102 Cal.App.4th 1402, 1410.) "[P]resumed fathers possess far greater rights than alleged or biological fathers. [Citation.] Only a presumed, not a mere biological,

father is a ‘parent’ entitled to receive reunification services, and only a presumed father is entitled to custody of his child. [Citation.] In contrast, the juvenile court ‘may’ order reunification services for a biological father if the court determines that the services will benefit the child.” (*Francisco G. v. Superior Court* (2001) 91 Cal.App.4th 586, 596; see also *In re A.A.* (2003) 114 Cal.App.4th 771, 779-780.)

“An alleged father in dependency or permanency proceedings does not have a known current interest [in the proceeding] because his paternity has not yet been established.” (*In re Emily R.* (2000) 80 Cal.App.4th 1344, 1352.) An alleged father has the right only to notice and the opportunity to appear in the dependency proceeding, once his identity is known, and the right to bring an action under Family Code section 7630 or section 7631 to establish paternity. (§ 316.2, subd. (d).)

Here, X.H.’s sole right as to the present matter merely consisted of being able to petition the juvenile court to elevate his status to presumed father. (*In re Christopher M.* (2003) 113 Cal.App.4th 155, 160.) He therefore did not have any right to attend the section 366.26 hearing under Penal Code section 2625.

Even if we presume that X.H., as an alleged father, should have been at the section 366.26 hearing, any error was harmless. A violation of Penal Code section 2625 is subject to harmless error analysis. (*In re Jesusa V.* (2004) 32 Cal.4th 588, 623-624 [involuntary absence of incarcerated parent from dependency proceeding reversible only if reasonably probable result would have been more favorable to parent absent the error].)

X.H. offers no suggestion as to how his presence at the permanency hearing could possibly have resulted in an outcome more favorable to him. As already noted, there is nothing in the record to suggest that X.H. had any information to aid his counsel at the hearing.

Further, X.H. had no rights as an alleged father. X.H.’s due process argument is based on his being a biological father, but he never took any step to have paternity tests and never had the status of a biological father. Moreover, even if he had established that he had the status of a biological father, he would not have been entitled to constitutional protection.

“ ‘[T]he mere existence of a biological link does not merit . . . constitutional protection’ [citation]; rather, the federal Constitution protects only the parental relationship that the unwed father has actively developed by ‘ “com[ing] forward to participate in the rearing of his child” ’ [citation] and ‘act[ing] as a father.’ ” Being the biological father of a child does not entitle a man to constitutional rights. (*Adoption of Michael H.* (1995) 10 Cal.4th 1043, 1052.) “ ‘Parental rights do not spring full-blown from the biological connection between parent and child. They require relationships more enduring.’ ” (*Lehr v. Robertson* (1983) 463 U.S. 248, 260, italics omitted.) Accordingly, a biological father who does not fully grasp the opportunity to establish a relationship with his child does not have a constitutional right to object to the termination of his rights. (*Id.* at p. 262; *Adoption of Michael H.*, at p. 1060.)

To establish presumed father status, “the father must demonstrate a willingness himself to assume full custody of the child—not merely to block adoption by others.” (*In re Julia U.* (1998) 64 Cal.App.4th 532, 541.) “A court should also consider the father’s public acknowledgment of paternity, his payment of pregnancy and birth expenses commensurate with his circumstances, and prompt legal action to seek custody of the child.” (*Ibid.*)

The record in the present case is clear. X.H. did absolutely nothing to establish a relationship with his children. He never visited them and they did not know who he was. There is no evidence that he provided any financial support.

In his reply brief, X.H. complains that he could not attempt to change his status to a biological or presumed father because he did not receive notice of the dependency proceedings. This argument is entirely without merit. There is some evidence that X.H. knew about the children shortly after their birth; mother claimed after the department had located X.H. that he had seen the twin boys during the time they were placed with her. Even if X.H. did not know about the twins until he received notification of the dependency hearings in November 2007, he had ample time to establish his paternity and to change his status. The section 366.26 hearing did not take place until December 17, 2008, more than one year after X.H. had notice of the dependency proceedings. X.H. did

nothing to elevate his status and his counsel never suggested that X.H. had any interest in changing his status.

Thus, the record establishes that X.H. had no interest in elevating his status and—as the alleged or biological father who never grasped the opportunity to establish a relationship with the twins—he did not have a constitutional right to object to the termination of parental rights. (*Lehr v. Robertson*, *supra*, 463 U.S. at p. 260; see also *Zacharia D.*, *supra*, 6 Cal.4th at p. 452.) Accordingly, the juvenile court did not violate X.H.’s due process rights by holding the section 366.26 without his presence.

II. Notice of the Dependency Proceedings

X.H. claims that the juvenile court’s failure to provide him with notice at the earlier stages of the dependency proceedings resulted in a structural defect requiring reversal. X.H. asserts that the department did not diligently pursue information that mother or the grandparents may have had about his whereabouts. We need not address whether the department established due diligence when searching for him because we conclude that X.H. forfeited this issue and, even if he did not waive this issue, any alleged error was harmless.

“A defect in notice . . . is a most serious issue, potentially jeopardizing the integrity of the entire judicial process. However, when a parent had the opportunity to present that issue to the juvenile court and failed to do so, appellate courts routinely refuse to exercise their limited discretion to consider the matter on appeal. This is precisely because defective notice and the consequences flowing from it may easily be corrected if promptly raised in the juvenile court.” (*In re Wilford J.* (2005) 131 Cal.App.4th 742, 754, citing *In re B.G.* (1974) 11 Cal.3d 679, 689.) Thus, a notice defect is forfeited by a failure to object in the trial court. “Although forfeiture is not automatic, and the appellate court has discretion to excuse a party’s failure to properly raise an issue in a timely fashion (*People v. Williams* (1998) 17 Cal.4th 148, 161, fn. 6 . . .), in dependency proceedings, where the well-being of the child and stability of placement is of paramount importance, that discretion ‘should be exercised rarely and only in cases

presenting an important legal issue.’ ” (*In re Wilford J.*, *supra*, 131 Cal.App.4th at p. 754.)

In the present case, X.H. appeared and his counsel appeared at a number of hearings where the section 366.26 hearing was continued. Neither he nor his counsel objected to his lack of notice and he has therefore forfeited any claim of defective notice. (See, e.g., *Marlene M. v. Superior Court* (2000) 80 Cal.App.4th 1139, 1149 [mother waived lack of notice argument by failing to object in juvenile court]; *In re Gilberto M.* (1992) 6 Cal.App.4th 1194, 1198 [court held that a father claiming a lack of notice of dependency proceedings waived raising the issue on appeal when he failed to make that objection at the section 366.21 hearing].) X.H. asserts, without any citation to any authority, that he could not raise the issue of lack of notice at hearings concerned with continuing the section 366.26 hearing. There was no reason that X.H. or his counsel could not claim defective notice at the numerous hearings related to continuing the section 366.26 that took place on January 8, January 15, February 20, March 18, August 12, November 5, and December 17, 2008.

Even if we were to presume that X.H. preserved the issue of defective notice for appeal, he cannot prevail because any alleged defective notice was harmless beyond a reasonable doubt under *Chapman v. California* (1967) 386 U.S. 18, 24. As already stressed, an alleged father is entitled to notice of the proceedings only to give him an opportunity to establish paternity. (*In re Alyssa F.* (2003) 112 Cal.App.4th 846, 855.) X.H. had no rights as the alleged father and, as stressed earlier, he had ample opportunity to attempt to elevate his status to that of presumed father, but showed no interest. Further, even if he had tried to change his status to presumed father, the record is completely lacking of any evidence to support such an action because X.H. did absolutely nothing to develop an emotional or legal relationship with the twins and he provided no financial support.

Rather than assert that he would have attempted to elevate his status to that of a presumed father, X.H. contends that the lack of notice to him at the earlier stages of the case deprived the court of learning any information about whether his mother would have

been a good placement for these children at an earlier time. X.H. cites to no evidence in the record to support this argument. Indeed, to the contrary, the record does not indicate that his mother ever contacted the department or appeared at any of the proceedings between November 2007, when X.H. was first notified about the dependency proceedings, and December 17, 2008, when the court actually held the section 366.26 hearing.

Accordingly, we conclude that X.H. suffered no prejudice as a result of not receiving notice of the earlier dependency proceedings.

DISPOSITION

The judgment is affirmed.

Lambden, J.

We concur:

Haerle, Acting P.J.

Richman, J.